IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1162 OF 2006

1. Shri Nivrutti Pandurang Dahibhate. Petitioner

versus

1.Mrs Sangita Maruti Hajare & 2 ors.. Respondents

Mr.P.P.Killedar for Petitioner

CORAM : D.G.KARNIK, J

DATED : 27th February, 2006

P.C.

1. Heard learned counsel for the petitioner.

2. This Writ Petition is directed against the order passed by the learned Civil Judge, Senior Division, Karad allowing the application for amendment under Order 6 Rule 17 of the Code of Civil Procedure. All amendments are generally allowed and refusal of the amendment is an exception. However, learned counsel for the petitioner contends that the present amendment changes the nature of the suit and therefore should not have been allowed. I have perused the proposed amendment and in my view, the amendment does not materially alter the nature of the suit. The suit is for partition. The defendant pleaded

that she had inherited the property under a will. Therefore the plaintiff seeks to make an amendment challenging the will. In my view, this does not change the nature of the suit nor does it change the relief claimed in the suit. Hence, the Writ Petition is rejected summmarily.

(D.G.KARNIK, J)

rng.